

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
(SOUTHERN) DIVISION**

IN RE:
Aliyyah Michelle Wells
Debtor(s)

CASE NO. 23-45928-MAR

CHAPTER 7

JUDGE Mark A. Randon

**CAPITAL ONE AUTO FINANCE, A DIVISION OF CAPITAL ONE, N.A.'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY
AND ENTRY OF ORDER WAIVING FRBP 4001(A)(3)**

NOW COMES Creditor, Capital One Auto Finance, a division of Capital One, N.A., by and through its attorneys, Law Office of Jacob High, PLLC, and for its Motion for Relief from the Automatic Stay states as follows:

1. This United States Bankruptcy Court for the Eastern District of Michigan has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 362. This is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A), (G), and (O).
2. Debtor filed for relief pursuant to Chapter 7 of Title 11 of the United States of the Bankruptcy Code on July 05, 2023.
3. The filing of a bankruptcy effectuated an automatic stay of any and all collection proceedings against the Debtor.
4. Creditor is the holder of a perfected security interest in a 2015 Ford Escape Utility 4D SE EcoBoost 4WD 1.6L I4 Turbo VIN# 1FMCU9GX7FUC02646. Copies of the Motor Vehicle Retail Installment Sales Contract and evidence of title are attached as Exhibits "A" and "B," respectively.
5. As of filing the Motion, Debtor owes a contract balance to Creditor of \$9,475.93.
6. Pursuant to the N.A.D.A. the fair market value of the vehicle is \$11,225.00. A copy of the vehicle valuation is attached as Exhibit "C."
7. The monthly payments are \$393.18, due on the 19th day of each month.
8. Debtor is in default. The account was due for the April 19, 2023 payment and all payments due since that time. A copy of the payment history is attached to the Affidavit as Exhibit "D."

9. Cause to lift the stay exists under 11 U.S.C. § 362(d)(1) because Debtor has defaulted on payments owed to Creditor, and the collateral continues to depreciate in value.

10. Continuation of the automatic stay pursuant to 11 U.S.C. § 362(a) will work real and irreparable harm to Creditor and may deprive Creditor of the adequate protection to which they are entitled under 11 U.S.C. §§ 361 and/or 362.

11. Creditor asks the Court to waive the 14-day stay under Rule 4001(a)(3) for any order granting relief from the automatic stay because the value of Collateral continues to depreciate.

12. The proposed Order for Relief from the Automatic Stay is attached as Exhibit 1.

WHEREFORE, for the reasons stated herein and in the Creditor's Memorandum in Support attached hereto as Exhibit 3, Creditor respectfully requests that this Honorable Court enter an Order Granting Relief from the Automatic Stay for good cause shown pursuant to 11 U.S.C. § 362(d)(1) that the Order is effective immediately upon entry by this Court notwithstanding the provisions of FRBP 4001(a)(3) and grant whatever other relief the court deems reasonable under the circumstances.

Dated: July 18, 2023

Respectfully submitted:

/s/ Jacob High
Law Office of Jacob High, PLLC
6440 Lake Meadow Drive
Waterford, MI 48327
Telephone: (248) 818-5880
jacob@jacobhighlaw.com
Attorney Bar Number P76374

**ATTORNEY FOR CREDITOR
CAPITAL ONE AUTO FINANCE,
A DIVISION OF CAPITAL ONE, N.A.**

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**ORDER GRANTING CAPITAL ONE AUTO FINANCE, A DIVISION OF CAPITAL ONE,
N.A.'S
RELIEF FROM THE AUTOMATIC STAY
AND ENTRY OF ORDER WAIVING FRBP 4001(A)(3)**

This matter came before the Court upon the Motion for Relief from the Automatic Stay ("Motion", ECF No. ____) filed by Capital One Auto Finance, a division of Capital One, N.A. ("Creditor") with respect to its interest in a 2015 Ford Escape Utility 4D SE EcoBoost 4WD 1.6L I4 Turbo VIN# 1FMCU9GX7FUC02646 ("Vehicle"). Required parties were served with the Motion and with the notice of the objections thereto. No objection was timely filed, and a certification of no response has been filed. The Court has reviewed the Motion and other pertinent pleadings and is advised in the premises.

IT IS HEREBY ORDERED that the automatic stay currently in effect as to Capital One Auto Finance, a division of Capital One, N.A. relative to its security interest in the 2015 Ford Escape Utility 4D SE EcoBoost 4WD 1.6L I4 Turbo VIN# 1FMCU9GX7FUC02646 is hereby lifted allowing Creditor to pursue its State law remedies.

IS FURTHER ORDERED that the Creditor shall turn over any funds received from the sale of said secured property which exceeds the balance, plus interest, costs of sale and attorney fees, to the Trustee appointed to the estate.

IT IS FURTHER ORDERED that this Order is effective immediately upon entry by this Court notwithstanding the provision of FRBP 4001(a)(3). This Order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Bankruptcy Code.

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JUDGE Mark A. Randon

NOTICE OF MOTION FOR RELIEF FROM
THE AUTOMATIC STAY
AND ENTRY OF ORDER WAIVING FRBP 4001(a)(3)

Creditor, Capital One Auto Finance, a division of Capital One, N.A., has filed papers with the Court requesting relief from the automatic stay regarding a 2015 Ford Escape Utility 4D SE EcoBoost 4WD 1.6L I4 Turbo VIN# 1FMCU9GX7FUC02646.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS
CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS
BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO
CONSULT ONE.)

If you do not want the court to grant the relief from the automatic stay or if you want the court to consider your views on the motion, by **14 DAYS**, you or your attorney must:

1. File with the court a written response or answer explaining your position at: ¹

US Bankruptcy Court
Eastern District of Michigan
211 West Fort Street
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **RECEIVE** it on or before the date stated above. All attorneys are required to file electronically.

You must also mail a copy to:

Law Office of Jacob High, PLLC
ATTN: Jacob High
6440 Lake Meadow Drive
Waterford, MI 48327
Email: jacob@jacobhighlaw.com

¹Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)
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2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Respectfully submitted:

/s/ Jacob High
Law Office of Jacob High, PLLC
6440 Lake Meadow Drive
Waterford, MI 48327
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Attorney Bar Number P76374

**ATTORNEY FOR CREDITOR
CAPITAL ONE AUTO FINANCE,
A DIVISION OF CAPITAL ONE, N.A.**

Dated: July 18, 2023

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**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM THE AUTOMATIC STAY
AND ENTRY OF ORDER WAIVING FRBP 4001(a)(3)**

Creditor Capital One Auto Finance, a division of Capital One, N.A., bases its Motion for Relief from the Automatic Stay on the failure to remit payments on a loan secured by a 2015 Ford Escape Utility 4D SE EcoBoost 4WD 1.6L I4 Turbo VIN# 1FMCU9GX7FUC02646 pursuant to the agreement between the parties. Creditor relies upon 11 U.S.C. § 362(d)(1) and states that failure to remit payments has denied Creditor adequate protection and is cause for relief from the automatic stay. Creditor also relies on Rule 4001(a)(3) for waiving the 14-day stay of such order because the collateral continues to depreciate in value.

Respectfully submitted:

/s/ Jacob High
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Attorney Bar Number P76374

**ATTORNEY FOR CREDITOR
CAPITAL ONE AUTO FINANCE,
A DIVISION OF CAPITAL ONE, N.A.**

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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2023, a true and correct copy of the Motion for Relief from the Automatic Stay and Entry of Order Waiving FRBP 4001(a)(3) with Notice of Opportunity to Object was served in the manner indicated below:

Debtor
Aliyyah Michelle Wells
9429 McDougall
Hamtramck, MI 48212
By First Class Mail

TRUSTEE
Timothy J. Miller
64541 Van Dyke,
Suite 101
Washington, MI 48095
miller7trustee@gmail.com
By ECF

Respectfully submitted:

/s/ Jacob High
Law Office of Jacob High, PLLC
6440 Lake Meadow Drive
Waterford, MI 48327
Telephone: (248) 818-5880
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Attorney Bar Number P76374

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A DIVISION OF CAPITAL ONE, N.A.